Res. W-5014 DWA AGENDA ID #13645 (Rev. 1)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS Utility Audit, Finance & Compliance Branch RESOLUTION W-5014 March 12, 2015

RESOLUTION

(RES. W-5014) RESOLUTION GRANTING CALIFORNIA WATER SERVICE COMPANY AUTHORITY TO REFUND CUSTOMERS OF ITS SQUIRREL MOUNTAIN DISTRICT \$78,000 OF EXCESS FUNDS FROM ITS SAFE DRINKING WATER BOND ACT TRUST ACCOUNT AND TO INCREASE SURCHARGE RATES TO PROVIDE ADEQUATE COLLECTION FOR FUTURE LOAN PAYMENTS.

By Advice Letter No. 2145 filed on October 22, 2014 and Supplemental Advice Letter No. 2145-A filed on November 4, 2014.

SUMMARY

This Resolution grants California Water Service Company (CWS) the authority requested in its Advice Letter (AL) No. 2145, as supplemented by AL 2145-A, with conditions.

CWS requests authority pursuant to the Water Industry Rules 7.3.3 and 8.5 of General Order 96-B (GO 96-B) to:

- 1. Refund through surcredit or check to customers of its Squirrel Mountain District (SMD) \$78,000 of excess funds deposited in its Safe Drinking Water Bond Act (SDWBA) trust account.
- 2. Increase the SMD SDWBA surcharge rates in order to provide adequate collection for future semiannual SDWBA loan payments of \$19,436.95.

A notice of the proposed surcharge increase was mailed to each customer on December 12, 2014, and published in the Kern Valley Sun on December 17, 2014. On December 16, 2014, CWS received a letter from a customer questioning why the surcharge increase is necessary given that CWS has excess funds in its trust account.

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On December 16, 2014, CWS received a letter from a SMD metered customer asking about the surcharge increase when there is a surplus in the trust account. On December 23, 2014, CWS responded to the customer indicating that the surplus were accumulated over the years since the merger of CWS and Dominguez and that pursuant to Commission regulation, an overcollection should be refunded to customers as soon as possible. And because CWS is not currently collecting sufficient surcharge, CWS needs to increase the SMD surcharge rates in order to meet the SDWBA loan payments.

This Resolution requires certain conditions to ensure proper treatment of the refund, including but not limited to, specific document retention, recording and reporting requirements. In addition, the Resolution notes that this refund is subject to audit.

BACKGROUND

CWS, a California corporation, is a Class A water company with service areas throughout the state. SMD provides water service to approximately 415 customers in Squirrel Mountain and vicinity, located in the unincorporated area south of Mountain Mesa on State Highway 178, five miles east of Lake Isabella, in Kern County.

In Decision (D.) 91-07-027, the Commission authorized the sale and transfer of the assets of Squirrel Mountain Water Company to Kernville Domestic Water Company. Dominguez Water Company (Dominguez) owned Kernville Domestic Water Company, which did business under the Kern River Valley Water Company.

CWS acquired the SMD system in the year 2000 as part of its merger with Dominguez, as authorized in D. 00-05-047.

In D.94-07-022, the Commission authorized Kernville Domestic Water Company to borrow \$898,600 under the SDWBA administered by the California Department of Water Resources (DWR) to fund water quality improvement projects in the Squirrel Mountain area, and to add a surcharge to water rates to repay the principal and interest on the loan. According to CWS, the loan amount availed of by SMD under DWR's Loan Contract # E51063 was \$830,389.

The SDWBA loan contract was for 35 years, maturing in 2032, and required the accumulation of a 10% reserve during the first 10 years of the loan. The loan contract also required the execution of a fiscal services agreement with a fiscal agent who acts as

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trustee for loan repayment funds deposited and performs services pertaining to receiving deposits, remitting payments and accumulating the reserve.

The surcharge authorized in D.94-07-022 is shown in the following table.

Table 1 Previous Surcharge Rates

Size of Meter	Monthly Surcharge
$5/8'' \times \frac{3}{4}''$	\$ 9.32
3/4"	\$ 14.00
1"	\$ 23.25
1-1/2"	\$ 45.50
2"	\$ 75.00
3"	\$140.00
4"	\$235.00

When CWS acquired SMD in the year 2000, the trust account balance was \$125,359.15. By AL No. 1494, effective October 30, 2001, CWS continued the surcharge rates authorized in D.94-07-022, as shown above. SMD's trust account is administered by WestAmerica Bank.

By AL No. 1872, effective August 11, 2008, CWS reduced the SMD surcharge rates due to an excess balance in the trust account. These rates, effective in 2008, are shown in the following table and are currently in effect.

Table 2 Current Surcharge Rates

Size of Meter	Monthly Surcharge
5/8" x ¾"	\$ 5.22
3/4"	\$ 7.84
1"	\$ 13.06
1-1/2"	\$ 26.12
2"	\$ 41.80
3"	\$ 78.37
4"	\$130.62

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The Division of Water and Audits' (DWA) Utility Audit, Finance and Compliance Branch (UAFCB) conducted a review of CWS' SMD SDWBA trust account and determined that after considering the accumulated 10% reserve requirement of \$38,874, SMD should have approximately \$78,000 of excess funds in the trust account.

UAFCB also determined that SMD is not collecting sufficient revenues to provide for the loan payments. In August 2008, CWS reduced the SMD surcharge rates by 44%. It appears that at that time, CWS intended to use part of the excess funds in the trust account to mitigate any undercollections.

In July 2014, UAFCB instructed CWS to determine a) the amount of excess funds in its SMD trust account, net of the accumulated reserve requirement, to be refunded to customers, and b) how the surcharge rates should be adjusted to have sufficient funds for the semi-annual payments on the loan.

A. CWS Advice Letter Requests

On October 22, 2014, CWS filed AL 2145, to request authority to refund to customers \$78,000 of excess funds accumulated in the SDWBA trust account administered by the WestAmerica Bank. Originally, CWS proposed a one-time refund of the \$78,000 excess via surcredit to current customers and by check to previous customers. On November 4, 2014, CWS filed AL No. 2145-A requesting an option to refund existing customers by check, asserting that refunding to current customers by check might be more efficient and timely than surcredit due to the programming effort involved. CWS is negotiating with a bank to undertake the refunding and to issue the checks to current and previous customers. If it is unsuccessful in such negotiations, it shall perform the refunds itself by issuing a surcredit to existing customers and a check to former customers.

CWS also requests authority to increase the SMD SDWBA surcharge rates to provide adequate collection for future semiannual SDWBA loan payments of \$19,436.95

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B. Proposed Refund

CWS calculated the amount of the refund to current and previous customers based on the prorated time they paid the surcharge.¹ CWS' calculation of the amount to be refunded, included in the work papers to AL No. 2145, as supplemented, is shown in the following table.

Table 3
Calculation of Refund
As of August 31, 2014

Trust account balance (beginning of 2014)	\$127,682.83
Add: Surcharges collected (January 2013 to June 2014)	10,926.76
Add: Net interest earned up to June 30, 2014	55.62
Less: July 2014 loan payment	<u>(19,438.92</u>)
Trust account balance June 30, 2014	\$119,226.29
Add: Surcharges collected in transit & collected	
up to August 31, 2014	8,823.74
Less: 10% reserve requirement (2 x loan payment)	(38,873.90)
Trust account balance as of August 31, 2014, net of reserve	\$ 89,176.13
Less: Amount of funds needed for next payment	11,176.13
Requested amount to be refunded	\$ <u>78,000.00</u>

Based on current surcharge rates, SMD's surcharge revenue is approximately \$2,195 per month. The difference between the trust account balance as of August 31, 2014 of \$89,176.13 and the requested amount to be refunded of \$78,000 is \$11,176. According to CWS, this amount, together with the estimated September to December 2014 surcharge collection of approximately \$8,780 (\$2,195.10 x 4 months), will provide funds for the January 2015 semi-annual loan payment of \$19,439.²

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¹ According to CWS, the billing system used by Dominguez prior to the merger is no longer available. CWS established that the timeline for the refund begins at year 2002 and continues until July 31, 2014.

² CWS stated that part of the December 2014 projected surcharge collection may be in-transit as of January 1, 2015.

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CWS' proposed refund per customer address is shown in the following table.

Table 4 CWS' Refund Design

Metered Service Size of Service or Meter	No. of Connections in 2014	Meter Ratio	Total Refund Per Address³	Total Refund
5/8 x ³ / ₄ -inch	427	1.0	\$ 176.47	\$75,352.94
¾-inch	10	1.5	\$ 264.71	2,647.06
1-inch	0	2.5	\$ 441.18	0.00
1-1/2-inch	0	5.0	\$ 882.35	0.00
2-inch	0	8.0	\$1,411.76	0.00
3-inch	0	15.0	\$2,647.06	0.00
4-inch	0	25.0	\$4,411.76	0.00
Estimated To	otal Refund			\$ <u>78,000.00</u>

C. Proposed Surcharge Adjustment

As shown in the following table, CWS indicates that it only collects approximately \$26,341 per year and needs to make loan payments of \$38,874, leaving an annual shortfall of approximately \$12,533.

Table 5 Surcharge Shortfall

Current Annual Revenue Requirement	\$ 38,873.90
Estimated Current Surcharge Collection	26,341.20
Requested Increase in Annual Surcharge	\$ <u>12,532.70</u>

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³ CWS will prorate the total refund per address among the customers at each address by the number of months each customer paid the surcharge.

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In order to eliminate the \$12,533 shortfall and provide sufficient funds to make the loan payments, CWS requests authority to increase its surcharge rates by approximately 47%, as shown in the following table.

Table 6 **Proposed Surcharge Rates**

Metered Service Size of Service	Present Monthly	Proposed Monthly	Monthly	
or Meter	Surcharge	Surcharge	Increase	Percent
5/8 x ³ / ₄ -inch	\$ 5.22	\$ 7.70	\$ 2.48	47.5%
³ / ₄ -inch	\$ 7.84	\$ 11.55	\$ 3.71	47.3%
1-inch	\$ 13.06	\$ 19.25	\$ 6.19	47.4%
1-1/2-inch	\$ 26.12	\$ 38.50	\$ 12.38	47.4%
2-inch	\$ 41.80	\$ 61.60	\$ 19.80	47.4%
3-inch	\$ 78.37	\$115.50	\$ 37.11	47.4%
4-inch	\$130.62	\$192.50	\$ 61.88	47.4%

With the proposed surcharge increase, a 5/8 x ¾-inch metered customer's monthly surcharge would increase from \$5.22 to \$7.70 or by 47.5%.

NOTICE AND PROTESTS

Pursuant to G.O. 96-B, Water Industry Rule 4.1, on October 22, 2014, CWS served its AL 2145 on its service list, which included, among others, some customers in SMD. Notice of AL 2145 was made by publication in the Commission's Daily Calendar on October 24, 2014. Notice of AL No 2145-A was made by publication in the Commission's Daily Calendar of November 5, 2014.

On December 12, 2014, CWS notified its SMD customers by mail of the refund and the proposed surcharge that is needed to have sufficient funds for future loan payments. In the Kern Valley Sun, CWS published a public notice on December 17, 2014, describing the refund and the proposed surcharge, with the estimated rate change expressed in both dollar and percentage terms. The Kern Valley Sun is a local newspaper circulated in Kern County, California.

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An SMD metered customer sent CWS a letter, dated December 16, 2014, expressing concern regarding the surcharge increase when there is a surplus of \$78,000 in the trust account, and who would be affected by the surcharge increase.

On December 23, 2014, CWS responded to the customer's concern indicating that the excess funds were accumulated over the years since the merger of CWS and Dominguez. CWS explained that pursuant to Commission regulation an overcollection needs to be refunded to customers as soon as possible. In addition, CWS explained that it is not collecting sufficient surcharge to meet future loan payments and according to the SDWBA loan agreement, CWS is bound to raise sufficient funds by increasing the surcharge to customers in the Squirrel Mountain service area and not to all of CWS customers.

DISCUSSION

Section 8.5 of the Water Industry Rules in GO 96-B provides that an overcollection shall be refunded as soon as possible by crediting the customer's service charge. An undercollection shall be recovered within one year by a surcharge on the service charge or commodity charge, as appropriate. The Commission has routinely authorized utilities to refund overcollections via surcredit or to collect undercollections via surcharge.

It has been the Commission's practice to require refunds of SDWBA surcharge overcollections through surcredit or by check. For example, in Res. W-4911, dated March 22, 2012, the Commission ordered Lake Alpine Water Company to refund overcollected funds in its trust account administered by a fiscal agent, as a surcredit over a 5-month period.

For administrative and handling efficiency, CWS proposes to do a one-time refund via surcredit or check. We have given consideration to CWS' alternative proposal to issue one-time checks to current and previous customers and determined that refunding via this method is reasonable, as long as CWS ensures that by doing so, customers receive what is due to them without being burdened with additional costs and it is the most cost effective method for the utility. If CWS is unable to negotiate favorable terms with a bank for issuing checks, CWS still has the option of doing a surcredit for current customers and issue checks to former customers itself.

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As set forth herein, we will authorize CWS to refund to its current and previous SMD customers \$78,000 of excess funds in its WestAmerica Bank SDWBA trust account. The Fiscal Services Agreement specifies that no funds from CWS' trust account be released except for loan payments without the written consent of DWR. It is therefore necessary that DWR give its written permission to WestAmerica Bank to make effective CWS' request to refund \$78,000 of the excess funds in its trust account. This Resolution provides DWR and WestAmerica Bank the specifics of how the refund will be conducted.

We will request DWR to instruct WestAmerica Bank to release to CWS the amount of \$78,000. A copy of the instruction letter should be provided by DWR to DWA's UAFCB.

To ensure proper treatment of the refund, the Commission will impose the following conditions on CWS:

- a) Open a separate bank account to deposit the excess funds received from the Fiscal Agent.
- b) Provide DWA's UAFCB a copy of the check received from the Fiscal Agent within ten (10) days of receipt.
- c) Prorate the refunds per current and previous customers by the number of months each customer paid the surcharge.
- d) Do the refund via a surcredit or check to current and prior customers in accordance with the refund design.
- e) Record all refund transactions in a balancing account.
- f) Keep and maintain copies of documents related to the refunding.
- g) Notify DWA's UAFCB when the refund has been completed and provide a final accounting.
- h) Any returned checks should be sent to the State of California's Unclaimed Property, and processed according to the State's Guidelines at http://www.sco.ca.gov/upd.html.
- i) Any prorated amount due a former customer that CWS does not have an address for should be sent to the State of California's Unclaimed Property, and processed according to the State's Guidelines.
- j) Any other undisbursed amount should be returned to the Trust Account.
- k) The refunding will be subject to audit when ordered by the Commission.
- l) On or before January 31, 2016 and annually thereafter, send a report to DWA's UAFCB stating the changes in the number of connections by type of customer

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and by size of connection, the amount of surcharge collected, the amount of repayment made, the outstanding balance of the loan, and the overages and shortages in the balancing account. Indicate in the report if an advice letter will be forthcoming to reflect any changes in the surcharge.

- m) Changes in surcharge rates should be accomplished by normal advice letter procedures.
- n) Be responsible for refunding or applying on behalf of its customers any surplus accrued in the balancing account when ordered by the Commission.

Pursuant to DWR's Rates and Charges in its Loan Contract for a Construction Loan under the SDWBA, the supplier or borrower should meet the payments of the loan when due or to raise sufficient funds through increased charges to meet the loan payments. It is therefore necessary that CWS adjust the surcharge rates to provide adequate collection for future loan payments. According to CWS's calculation, a \$12,532.90 or 47.5% increase in surcharge rates is needed in order to provide for the annual payments of \$38,873.90.

The requested increase in surcharge rates is reasonable and will provide CWS sufficient surcharge revenue to continue paying the SMD SDWBA loan. As set forth herein, we authorize CWS to increase the surcharge rates. It has been the Commission's practice to require that changes in future surcharge rates be accomplished by normal advice letter procedures.

SAFETY

In this filing, DWA's UAFCB thoroughly reviewed CWS' request to refund excess funds in the SDWBA trust account for the benefit of customers and to adjust the surcharge rates pursuant to the requirements of the loan contract. There are no safety implications associated with AL No. 2145, as supplemented.

COMMENTS

While one out of CWS's SMD 415 customers expressed concern regarding the surcharge increase, there was no showing as to why the proposed surcharge is not justified. The surcharge serves only to repay the SDWBA loan and does not generate any profit to the utility owners. One of the conditions being imposed to CWS by this Commission in this Resolution is a periodic review of surcharge collections and loan payments. This is intended to keep the surcharge collections on par with the loan payments.

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Public Utilities Code Section 311 (g) (1) generally requires that draft resolutions be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

Accordingly, this proposed resolution was mailed to all parties and made available for public comment on January 23, 2015. No comments on the draft resolution were received.

FINDINGS

- 1. CWS, a California corporation, is a Class A water utility subject to the jurisdiction of this Commission.
- 2. In D.94-07-022, the Commission authorized Kernville Domestic Water Company to borrow \$898,600 under the SDWBA program to be paid through surcharge rates to fund water quality improvement projects in the Squirrel Mountain area.
- 3. Kernville Domestic Water Company did business under Kern River Valley Water Company, which was a wholly owned subsidiary of Dominguez Water Company.
- 4. The Squirrel Mountain area operated by Kernville Domestic Water Company was acquired by CWS in the year 2000, as part of its merger with the Dominguez Water Company, as authorized in D.00-05-047.
- 5. The Squirrel Mountain area became a district of CWS, the Squirrel Mountain District (SMD).
- 6. When CWS acquired SMD in the year 2000, the SDWBA trust account balance was \$125,359.15.
- 7. By AL No. 1494, effective October 30, 2001, CWS implemented the surcharge rates authorized in D.94-07-022 for SMD.
- 8. By AL No. 1872, effective August 11, 2008, CWS reduced the SMD surcharge rates due to the high balance in the trust account.
- 9. When CWS reduced the SMD surcharge rates, it appears that it expected to fund future loan payments through the remaining excess balance in the trust account.

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- 10. As of August 31, 2014, the 10% reserve requirement of \$38,873.90 is held in the trust account.
- 11. SMD's trust account balance, net of the 10% reserve as of August 31, 2014 is estimated at \$89,176. After accounting for the 10% required reserve, there is an overcollection of \$78,000 in the trust account that SMD must refund to customers.
- 12. AL No. 2145 proposes to refund an estimated \$78,000, keeping in the trust account the reserve requirement and a provision for the January 2015 loan payment.
- 13. AL No. 2145-A requests the option to refund the excess funds to current customers by check.
- 14. The refund per customer address will be based on billing records from 2002 until July 31, 2014. Previous and current customers will get a refund based on the number of months they paid the surcharge.
- 15. DWR is the sole agency that can instruct WestAmerica Bank to release funds to CWS to be refunded to customers.
- 16. Notice of AL No. 2145 appeared on the Commission's Daily Calendar on October 24, 2014.
- 17. Notice of AL No. 2145-A appeared on the Commission's Daily Calendar on November 5, 2014.
- 18. On December 12, 2014, CWS notified its SMD customers by mail of the proposed refund and an increase in surcharge rates.
- 19. On December 17, 2014, CWS published a public notice containing the proposed refund and the proposed surcharge increase in the Kern Valley Sun, a local newspaper circulated in Kern County.
- 20. CWS received a letter from one customer questioning the excess funds and the surcharge increase.
- 21. CWS acknowledged receipt of the customer's concern and responded to the customer on December 23, 2014. CWS explained that the Commission requires that an

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overcollection be refunded to customers as soon as possible and because the current surcharge collection is insufficient to make the loan payments, CWS needs to a surcharge increase to meet the loan payments.

- 22. The Commission has routinely authorized utilities to refund overcollections, overearnings or make other regulatory adjustments via surcredit or surcharge.
- 23. CWS requests that it have the option to provide a one-time refund to current and prior customers for expediency and fast completion.
- 24. CWS will provide a refund to current and previous owners based on the prorated time each customer paid the surcharge. Current customers will be credited via surcredit or by check and previous customers by check.
- 25. CWS is negotiating with a bank to undertake the refunding and to issue the checks to current and previous customers. If it is unsuccessful in such negotiations, it shall perform the refunds itself by issuing a surcredit to existing customers and a check to former customers.
- 26. Adding conditions to the Commission's authorization will help protect ratepayers and ensure proper treatment of the refund.
- 27. It has been the Commission's practice to require that a periodic report with the changes in the number of connections by type of customer and by size of connection, the amount of service fee collected, the outstanding balance of the loan, and the overages and shortages in the utility's balancing account be accomplished by the utility.
- 28. The Commission specifies that changes in surcharge collection rates should be accomplished by normal advice letter procedures.
- 29. In its Loan Contract for a Construction Loan under the SDWBA, DWR requires that the borrower meet the loan payments when due or to raise sufficient funds through increased charges to meet the loan payments.
- 30. CWS needs to increase the SMD surcharge rates in order to provide the utility adequate collection for future loan payments of \$38,873.90 annually.

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CONCLUSIONS OF LAW

- 1. GO 96-B, Section 8.5 of the Water Industry Rules requires that an overcollection be refunded as soon as possible by crediting the customer's service charge.
- 2. It has been the Commission's policy to require its regulated utilities to refund overcollections, overearnings or other regulatory adjustments.
- 3. It is in the public interest that CWS refund \$78,000 of excess funds in its trust account.
- 4. CWS should be authorized to refund excess funds in its trust account.
- 5. The Commission has no objection if CWS determines that it is efficacious to send the refund to current and previous customers by check. If CWS is unable to arrange for a bank to issue such refunds, it shall perform the refunds itself by issuing a surcredit to existing customers and a check to former customers.
- 6. It is reasonable to require certain conditions for the refund and reporting requirements as set forth in this Resolution.
- 7. DWR should instruct WestAmerica Bank in writing to release to CWS the excess funds discussed in this Resolution.
- 8. It is CWS' responsibility to abide by and comply with the loan payment requirements in DWR's Loan Contract for a Construction Loan.
- 9. It is reasonable to adjust the current SMD surcharge rates to provide adequate collection for CWS' future semiannual payments to DWR.

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THEREFORE, IT IS ORDERED THAT:

- 1. California Water Service Company shall refund \$78,000 of excess funds deposited in its trust account administered by its fiscal agent, WestAmerica Bank, prorated amongst current and prior Squirrel Mountain District customers by the number of months each paid the surcharge.
- 2. Within 2 days from the effective date of this Resolution, the Division of Water and Audit's Utility Audit, Finance and Compliance Branch shall provide a copy of this Resolution to the Department of Water Resources.
- 3. Within 15 days from the effective date of this Resolution, the Department of Water Resources shall provide WestAmerica Bank its written instruction and permission to release \$78,000 to California Water Service Company to be refunded to its current and previous Squirrel Mountain District customers via surcredit or check.
- 4. The Department of Water Resources shall provide California Water Service Company and the Division of Water and Audit's Utility Audit, Finance and Compliance Branch a copy of its written permission and instruction to West America Bank within 5 days of execution.
- 5. California Water Service Company shall notify the Department of Water Resources and the Division of Water and Audit's Utility Audit, Finance and Compliance Branch when the refund check is received from WestAmerica Bank.
- 6. Upon receipt of the refund check from WestAmerica Bank, California Water Service Company shall issue refunds to current and prior customers, pursuant to the refund design discussed in this Resolution.
- 7. California Water Service Company may do the refunding to current customers by surcredit or by check.
- 8. California Water Service Company is required to observe the conditions specified on pages 9 and 10 of this Resolution.
- 9. The surcharge increase shown in Table 6, page 7 of this Resolution, and also indicated in California Water Service Company's proposed tariff attached to Advice

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Letter No. 2145, as supplemented, Schedule No. KRV-SQ-1, Kern River Valley Tariff Area (Squirrel Mountain Water Service Area), General Metered Service is approved.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 12, 2015. The following Commissioners approved it:

TIMOTHY J. SULLIVAN
Executive Director

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CERTIFICATE OF SERVICE

I certify that I have by either electronic mail or postal mail, this day, served a true copy of Proposed Resolution No. W-5022 on all parties in these filings or their attorneys as shown on the attached lists.

Dated January 23, 2015, at San Francisco, California.

/s/ JENNIFER PEREZ

Jennifer Perez

Parties should notify the Division of Water and Audits, Fourth Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears.

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CALIFORNIA WATER SERVICE COMPANY

ADVICE LETTER NO. 2145 SERVICE LIST

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